

DEPARTMENT OF SOCIAL SERVICES

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December 26, 1984

ALL-COUNTY LETTER NO. 84-132

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: QUESTIONS AND ANSWERS ON THE FIRST SET OF THE FEDERAL DEFICIT  
REDUCTION ACT (DEFRA) REGULATIONS EFFECTIVE OCTOBER 1, 1984  
REFERENCE:

Attached is a listing of questions and answers on the first phase of regulations implementing the Federal Deficit Reduction Act of 1984. These questions are a result of a training session provided to southern counties' representatives on November 9, and encompass the following regulation provisions:

- o \$75 Work Expense Disregard
- o \$30 Disregard
- o 185% Gross Income Limit
- o Student Earnings Disregard
- o Earned Income Credit
- o \$50 Child/Spousal Support Disregard
- o Burial Plots and Funeral Arrangements

Answers to other questions which will require additional time to resolve will be transmitted to counties in the immediate future.

Please contact the AFDC Policy Implementation Bureau at (916) 322-5330 or ATSS 492-5330 if you have any questions on this letter.

  
ROBERT A. HOREL  
Deputy Director

Attachment

QUESTIONS AND ANSWERS

DEFRA Regulations Effective

October 1, 1984

o \$75 Work Expense Disregard

- Q.: If a recipient works in September and gets paid in October, does he/she receive the \$75 work expense disregard in October?

A.: Yes, the recipient is entitled to the disregard when they were employed in the month to which the earnings are attributable.

- Q.: What happens when a recipient has earnings in month X and receives the \$75 deduction from those earnings, then in a later month receives an additional payment (such as a bonus) for work performed in month X - should the deduction be applied again?

A.: No. If the recipient has already received the \$75 disregard in the month to which the bonus is attributable, they cannot receive it again.

- Q.: What if a recipient does not show days/hours on the CA 7. Do they get the \$75 disregard?

A.: Yes.

- Q.: What happens when a stepparent, who is not in the assistance unit, does not show days/hours on the CA 7. Do they get the \$75 disregard?

A.: No. If the stepparent does not show days/hours on the CA 7, they will get the \$50 disregard as long as there is sufficient evidence to show that they worked during the month.

- Q.: If a recipient does not show days/hours on the CA 7, what is the maximum child care disregard they can get?

A.: \$159.

o \$30 Disregard

- Q.: Does the eight month \$30 earned income disregard apply to the financial eligibility test as well as grant computation?

A.: Yes, even if the applicant has been off aid for the prior four months.

EXAMPLE:

/30	1/3/30	1/3/30	1/3/30	1/3/	30	/off/off/off/off/	30	/	30	/	30/
1	2	3	4	5	6	7	8	9	10	11	12

- Q.: Does that mean when an applicant comes in after they have been off aid for 12 consecutive months, they will get the \$30 disregard when determining financial eligibility?

A.: No. The \$30 disregard only applies during the eight-consecutive-month period. After a recipient has been off aid for 12 consecutive months and then applies for aid the \$30 and one-third disregard starts over again, subject to the limitation and restrictions in Eligibility and Assistance Standards (EAS) 44-111.23 and EAS 44-207.322.

- Q.: After the application of the standard work expense disregard and the child care disregard, if there is no income left to apply the \$30 and one-third disregard to, this constitutes a break in the four consecutive months. Does this also apply to the additional \$30 disregard?

A.: No. The eight month count continues regardless of the circumstances.

- Q.: What is the first month to which the \$30 disregard can be applied for the financial eligibility test?

A.: October 1984. Due to prior-month budgeting, this would occur when the recipient is eligible for the \$30 and one-third disregard in the payment month of October 1984, but the four months of \$30 and one-third for the financial eligibility test ended prior to October.

o 185 Percent Gross Income Limit

- Q.: When do counties start applying the 185 percent gross income limit on anticipated income?

A.: Counties will apply the 185 percent income test on income that is anticipated to be received from October 1, 1984 forward.

- Q.: When do counties start applying the 185 percent gross income limit on reported income?

A.: Counties will apply the new 185 percent gross income limit on income received from October 1, 1984 forward. Therefore, the October 1984 CA 7 received in November will be subjected to the 185 percent test in ongoing cases.

- Q.: Because the new 185 percent gross income limit is effective October 1, 1984, do counties start applying the 185 percent gross income test on CA 7s received from October 1, 1984 on?

A.: The CA 7s received in October 1984 report actual September 1984 income and anticipated November 1984 income. Therefore, the September 1984 income reported on a CA 7 received after October 1, 1984 is subject to the 150 percent test, while the October 1984 and November 1984 anticipated income is subject to the 185 percent test.

o Student Earnings Disregard for the 185 Percent Test

- Q.: Are the earnings of a part-time student disregarded from the 185 percent test?

A.: No.

- Q.: Do the six months per calendar year have to be consecutive?

A.: No.

- Q.: If a full-time student has a JTPA job for more than six months, can the earnings be disregarded under the student disregard after the JTPA disregard expires?

A.: Not for the 185 percent test. The earnings would be disregarded indefinitely for the financial eligibility test and the grant computation under the student disregard. In order for a full-time student to receive an additional six-month disregard for the 185 percent test, the job would have to be non-JTPA related.

- Q.: How do you count the six months of disregarded student earnings?

A.: Use the month when the student's earnings are actually received as the disregard month. For example, if the CA 7 received in December indicates anticipated student earnings in January, January would be considered the first month of disregarded income. The county would verify the January student income using the CA 7 received in February. If that CA 7 shows there were actually no student earnings received in January, that month would not count as one of the six months.

- Q.: Can a full-time student with earnings be excluded from the assistance unit after the six-month disregard has ended if the caretaker relative requests it for purposes of avoiding the inclusion of the earnings for the 185 percent test?

A.: No. Regulations will become effective in early 1985 that will require that all eligible children be included in the assistance unit. The six-month limit on the student disregard would not be reached before those regulations are in effect.

- Q.: Do the student earnings disregard and JTPA earnings disregard only apply to children?

A.: Yes.

o Earned Income Credit

- Q.: How do counties ensure recipients file for year-end EIC?

A.: Counties must develop a system to determine a recipient's eligibility for year-end EIC (see EAS 44-101.32 for eligibility conditions) and to ensure that eligible recipients file for EIC by April 15, 1984. This could be accomplished through questionnaires/stuffers similar to those sent by many counties for income tax refunds. Counties may require recipients to submit some evidence such as a copy of their 1040 or 1040A as verification that they have filed for EIC.

- Q.: When should the stuffers be sent?

A.: Any time from December through March.

- Q.: What happens if a recipient does not file for year-end EIC?

A.: If a recipient is apparently eligible for EIC, has been advised of the filing requirements, and has not provided verification of filing for year-end EIC by the first part of April, counties can send a Notice of Action to discontinue the affected recipient under EAS 44-103.23 (refusing to apply for unconditionally available income). This would give the recipient time to file and provide verification and the discontinuance could be rescinded.

- Q.: What happens if a recipient cannot establish how much of a tax return is EIC?

A.: The recipient or the county should attempt to obtain the information from IRS. However, by using a system that would require the recipient to submit a copy of the 1040 or 1040A as verification of filing for year-end EIC this problem would be minimized.

- Q.: If a recipient refuses to apply for year-end EIC, is the entire assistance unit ineligible or just the individual?

A.: Only the individual who fails to apply for unconditionally available income is ineligible (44-111.23).

- Q.: How long would the individual be ineligible for AFDC for refusing to apply for year-end EIC?

A.: The individual would be ineligible until application for EIC is made and verification has been provided to the county.

o \$50 Child/Spousal Support Disregard

- Q.: Can the CWD have the District Attorney send the disregard payments to the assistance unit?

A.: Yes, by entering into an interagency agreement with the DA. Counties may contract with any public or private agency, including the IV-D distribution agency, to issue the disregard payments.

- Q.: What does EAS 44-111.471 mean?

A.: This section means that up to \$50 of the current support obligation collected by the Family Support Division (District Attorney) will be disregarded and will not count as income for the 185 percent test and financial eligibility test for the month the collection agency received the support payment. When the disregard payment is received by the assistance unit, the entire amount of the disregard payment will be disregarded for the 185 percent test, the financial eligibility test, and the grant computation.

- Q.: Does the support disregard provision include spousal support?

A.: Yes. Our regulations will be revised to reflect the inclusion of spousal support.

- Q.: How do we deal with the support money a person receives directly?

A.: The county should instruct the recipient to forward the entire payment to the District Attorney. The disregard payment will then be issued to the recipient when the disregards from the DA collections are issued. If the recipient keeps the payment, the county would disregard up to \$50 of the current support payment for eligibility determination and grant computation. The county must coordinate with the DA to determine that the payment is made on the current obligation and that a disregard has not or will not be issued for a collection made by the DA in the same month.

- Q.: Can the support disregard be combined with a grant payment?  
A.: No. The disregard payment must be issued in a separate and identifiable warrant. It cannot be combined with a grant payment or any other support pass-on or excess payment.
- Q.: How will the IV-A agency know which assistance units are entitled to a disregard and how much the disregard will be?  
A.: The IV-D Distribution Unit will inform the IV-A agency (and the organization under contract to issue the disregard payment, if other than the IV-A agency) of the amount of the disregards for which the assistance units are entitled.
- Q.: When do the disregard payments have to be issued?  
A.: No later than the fifth day of the month following the month of distribution. The month of distribution is the month following the month of collection.
- Q.: When collections are made from more than one absent parent for members of the same assistance unit, what is the total amount of disregard that can be paid to the assistance unit?  
A.: The total disregard paid to the assistance unit cannot exceed \$50 regardless of the number of collections made for the assistance unit.
- Q.: What happens when a collection is made from an absent parent for children who are not in the same assistance unit?  
A.: The payment will be prorated by the IV-D collection agency and the IV-A agency will be informed of the amount of disregard to be paid to each assistance unit.
- Q.: Will recipients have the right to a hearing regarding the disregard payments?  
A.: Yes.
- Q.: What type of notification will have to be given to the recipients about the disregard payments?  
A.: An informational notice will have to be sent for each payment. We are developing the notice and will distribute it to you as soon as possible.
- Q.: If the recipient still has the \$50 support disregard in the month after receipt, is it counted as property?  
A.: Yes. The support disregard is exempt as income and resources only in the month of receipt.

- Q.: When is the effective date for the support disregard implementation?  
  
A.: Regulations to implement the disregard payment are expected to be effective in early 1985. However, retroactive payments will be made for all family support collected on or after October 1, 1984.
- Q.: Is the CA 7 considered incomplete if the recipient fails to report the receipt of a support disregard payment?  
  
A.: No, but the recipient should be instructed to report it on the CA 7 in order to avoid recipient confusion on what income must be reported.

o Property - Burial Plots and Funeral Arrangements

- Q.: Can family members have more than one funeral agreement?  
  
A.: Yes. Any money that is placed in an irrevocable trust is exempt plus up to \$1,500 of one other bona fide agreement per family member.
- Q.: Are revocable trusts or funds that are set up to provide services for the applicant/recipient exempt?  
  
A.: Up to \$1,500 of one agreement per family member is exempt as long as it is a bona fide agreement between the individual and a licensed cemetery authority or funeral director.